

SEP 30 2005

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF  
APPLICATION FOR LICENSE FOR  
TERILYN BEILKE) FINDINGS OF FACT, CONCLUSIONS  
) OF LAW, RECOMMENDED ORDER  
) AND ORDER  
)  
)  
)

CAUSE NO. A-1630

This matter came on for hearing on the 29<sup>th</sup> day of September, 2005, before Keri M. Stasiuk, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The matter arises out of a denial of an application for a resident insurance producer's license. The Nebraska Department of Insurance ("Department") was represented by its attorney, Eric Dunning. TeriLyn Beilke ("Applicant") was present and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Applicant and Department presented evidence and testimony at the hearing and the matter was taken under advisement. The hearing officer hereby makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about June 20, 2005, Applicant applied for a resident insurance producer's license. See Exhibit 3. Applicant paid the appropriate fees. See Exhibit 3. Applicant's current address is listed as 1033 North 90<sup>th</sup> Street, Apt. 9, Omaha, Nebraska. See Exhibit 3.
3. In response to Part III, Question B of the insurance producer license application, Applicant indicated that she had previously been convicted of or pled nolo

contendere (no contest) to any misdemeanors or felonies or currently had pending misdemeanor or felony charges filed against her. See Exhibit 3. Attached to that application was a copy of an Information charging Applicant with Theft by Deception. See Exhibit 3.

4. On or about June 27, 2005, Beverley Creager, Licensing Administrator for the Department, notified Applicant that her application for an insurance producer's license was denied based on the pending misdemeanor or felony charges filed against her, under Neb. Rev. Stat. §44-4059(1)(f), and notified her of her right to request a public hearing within thirty days of her receipt of the denial letter if she wished to appeal the denial. See Exhibit 3.

5. On or about June 28, 2005, Applicant requested a hearing to appeal the Department's denial for an insurance producer's license. See Exhibit 1.

6. Applicant testified that the charges against her had been dismissed and that she was currently going through diversion. She also testified that she had not stolen merchandise from her employer, that two employees she was supervising had stolen the merchandise, that she had written a letter taking responsibility for the theft because representatives of the Loss Prevention division of her employer had told her that no charges would be filed against her if she wrote such letter, and that the representatives from the Loss Prevention division turned the letter she had written over to the police, resulting in the charges against her. Applicant testified that the Judge dismissed the case against her because she had no record and there was little evidence against her. Applicant further testified that she is required to perform 60 hours of community service as part of her diversion program and that at this time, she had performed approximately half of those hours by volunteering at the Make-A-Wish Foundation. She testified that she expects to complete her diversion program by the end of the year.

7. Applicant provided a copy of the order dismissing the charges against her. See Exhibit 5. The order was dated September 8, 2005 and signed by the Judge and Deputy County Attorney.

8. Applicant also provided letters in support of licensure from Karen Beilke, Applicant's mother; Kimberle Heyer, a friend of Applicant; Kelsey M. Badding, a friend and former customer of Applicant's; Antonio Hunt, father of Applicant's child; Chelsey Gentry, a former subordinate of Applicant's; and Dejana Gunnells, a friend and former customer of Applicant's who informed Applicant of the theft of merchandise from her employer's store. See Exhibits 6, 7, 8, 9, 10, 11, and 12.

9. The granting of a license by the Department is based upon the veracity of the facts disclosed in the application, the testimony given and the evidence introduced into the record at the hearing.

#### CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of insurance producers to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Applicant.

3. Because the applicant no longer has pending misdemeanor or felony charges filed against her and has not been convicted of or pled nolo contendere (no contest) to any misdemeanors or felonies, the basis for the denial of her license application under Neb. Rev. Stat. § 44-4059(1)(f) no longer exists.

#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Director approve applicant's request for licensing as an insurance producer, contingent on the filing by Applicant of an updated application.

Dated this 30<sup>th</sup> day of September, 2005.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



Keri M. Stasiuk  
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order, providing for the approval of Applicant's request for an insurance producer's license contingent on the filing of an updated application, is adopted as the official and final Order of this Department in The Matter of the Denial of Application For License For TeriLyn Beilke, A-1630.

Dated this 30<sup>th</sup> day of September, 2005.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE



L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant, by mailing a copy to Applicant at 1033 North 90<sup>th</sup> Street, Apt. 9, Omaha, Nebraska, 68114, by certified mail, return receipt requested, on this 30<sup>th</sup> day of September, 2005.

Tracy A. Luhn